

FILED-CLERK
U.S. DISTRICT COURT

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
MARSHALL DIVISION

2008 JUN -4 PM 2: 09
TX EASTERN-MARSHALL

BY _____

(1) TECHNOLOGY PROPERTIES
LIMITED and (2) PATRIOT SCIENTIFIC
CORPORATION,

Plaintiffs,

VS.

(1) HTC CORPORATION and
(2) HTC AMERICA, INC ,

Defendants.

CASE NO. **2 - 0 8 C V - 2 2 6**

Jury Trial Demanded

COMPLAINT FOR PATENT INFRINGEMENT AND DEMAND FOR JURY TRIAL

Plaintiffs, Technology Properties Limited, Inc ("TPL") and Patriot Scientific Corporation ("Patriot"), (collectively "Plaintiffs"), allege the following in support of their Complaint for Patent Infringement and Demand for Jury Trial ("Complaint") against Defendants, HTC Corporation ("HTC") and HTC America, Inc. ("HTC America").

PARTIES

1. Plaintiff, Technology Properties Limited, Inc. ("TPL") is a corporation duly organized and existing under the laws of the State of California and maintains its principal place of business in San Jose, California.

2. Plaintiff, Patriot Scientific Corporation ("Patriot") is a corporation duly organized and existing under the laws of the State of Delaware and maintains its principal place of business in Carlsbad, California

3. Upon information and belief, Defendant HTC Corporation is a Taiwan corporation with its principal place of business in Taoyuan, Taiwan, R.O.C

4. Upon information and belief, Defendant HTC America, Inc. is a Texas corporation with its principal place of business in Bellevue, Washington

JURISDICTION

5. This Court has subject matter jurisdiction over this action pursuant to 28 U.S.C. §§ 1331, 1338(a) because this action arises under the patent laws of the United States, including 35 U.S.C. §§ 101, *et seq.* and 271, *et seq.* This Court has personal jurisdiction over Defendants because they each infringe Plaintiffs' patent by offering on their websites infringing products to their users and/or customers who reside in, or may be found in, the Eastern District of Texas. Further, each Defendant has actually transacted business with users of their websites in the Eastern District of Texas.

VENUE

6. Venue is proper in this judicial district under 28 U.S.C. §§ 1391(b) and (c) and 1400(b) because Defendants have each committed acts of infringement in this district.

GENERAL ALLEGATIONS

7. On June 25, 1996, United States Patent No. 5,530,890 ("890 patent") entitled "High Performance, Low Cost Microprocessor" was duly and legally issued. All rights and interest in the '890 patent were assigned to Patriot Scientific Corporation. A true and correct copy of the '890 patent is attached hereto as Exhibit A.

8. TPL and Patriot are co-owners of the '890 patent. TPL has the exclusive right to enforce and license the '890 patent, and has standing to sue.

COUNT 1

(Patent infringement Against HTC Corporation)

9 Paragraphs 1-8 of the Complaint set forth above are incorporated herein by reference.

10. Upon information and belief Defendant HTC has infringed and continues to infringe under 35 U.S.C. § 271 the '890 patent.

11. HTC's acts of infringement have caused damage to Plaintiffs. Under 35 U.S.C. § 284, Plaintiffs are entitled to recover from HTC Corporation the damages sustained by Plaintiffs as a result of its infringement of the '890 patent. HTC's infringement of Plaintiffs' exclusive rights under the '890 patent will continue to damage Plaintiffs' business, causing irreparable harm, for which there is no adequate remedy of law, unless enjoined by this Court under 35 U.S.C. § 283.

12. Plaintiffs allege, on information and belief, that HTC's acts of infringement were willful and deliberate

COUNT 2

(Patent infringement Against HTC America, Inc.)

13 Paragraphs 1-8 of the Complaint set forth above are incorporated herein by reference.

14. Upon information and belief Defendant HTC America has infringed and continues to infringe under 35 U.S.C. § 271 the '890 patent.

15. HTC America's acts of infringement have caused damage to Plaintiffs. Under 35 U.S.C. § 284, Plaintiffs are entitled to recover from HTC America the damages sustained by Plaintiffs as a result of its infringement of the '890 patent. HTC America's infringement of

Plaintiffs' exclusive rights under the '890 patent will continue to damage Plaintiffs' business, causing irreparable harm, for which there is no adequate remedy of law, unless enjoined by this Court under 35 U.S.C. § 283.

16. Plaintiffs allege, on information and belief, that HTC America's acts of infringement were willful and deliberate.

PRAYER FOR RELIEF

WHEREFORE, Plaintiffs respectfully request that this Court enter judgment against Defendants as follows:

A. For judgment that Defendants, HTC Corporation and HTC America, Inc., have infringed and continue to infringe the '890 patent;

B. For permanent injunctions under 35 U.S.C. § 283 against Defendants and their directors, officers, employees, agents, subsidiaries, parents, attorneys, and all persons acting in concert, on behalf of, in joint venture, or in partnership with Defendants from further acts of infringement;

C. For damages to be paid by Defendants adequate to compensate Plaintiffs for their infringement, including interests, costs and disbursements as the Court may deem appropriate under 35 U.S.C. § 284;

D. For judgment finding that Defendants infringement was willful and deliberate, entitling Plaintiffs to increased damages under 35 U.S.C. § 284;

E. For judgment finding this to be an exceptional case against Defendants and awarding Plaintiffs attorney fees under 35 U.S.C. § 285; and,

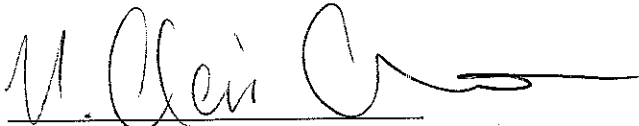
F. For such other and further relief at law and in equity as the court may deem just and proper.

DEMAND FOR JURY TRIAL

Pursuant to the Federal Rules of Civil Procedure Rule 38, Plaintiffs hereby demand a jury trial on all issues triable by jury.

Dated: June 4, 2008

Respectfully submitted,

By: 

S. Calvin Capshaw
State Bar No. 03783900
Email: ccapshaw@capshawlaw.com
Elizabeth L. DeRieux
State Bar No. 05770585
Email: ederieux@capshawlaw.com
N. Claire Abernathy
State Bar No. 24053063
E-mail: chenry@capshawlaw.com
Capshaw DeRieux, LLP
1127 Judson Road, Suite 220
Longview, TX 75601
Telephone: (903) 236-9800
Facsimile: (903) 236-8787

Robert E. Krebs
California Bar No. 57526
Email: rkrebs@thelen.com
Christopher L. Ogden
California Bar No. 235517
Email: cogden@thelen.com
Thelen Reid Brown Raysman & Steiner, LLP
225 West Santa Clara Street, Suite 1200
San Jose, CA 95113-1723
Telephone: (408) 292-5800
Facsimile: (408) 287-8040

Ronald F. Lopez
California Bar No. 11756
Email: rflopez@thelen.com
Thelen Reid Brown Raysman & Steiner, LLP
101 Second Street, Suite 1800
San Francisco, CA 94105-3606
Telephone: (415) 371-1200
Facsimile: (415) 371-1211

ATTORNEYS FOR PLAINTIFF
TECHNOLOGY PROPERTIES LIMITED

By: Robert M. Parker by permission NCA

Robert M. Parker

State Bar No 15498000

Email: rmpparker@pbatyler.com

Robert Christopher Bunt

State Bar No 00787165

Email: rcbunt@pbatyler.com

Parker, Bunt & Ainsworth, P.C.

100 East Ferguson, Ste 1114

Tyler, TX 75702

Telephone: (903) 531-3535

Facsimile: (903) 533-9687

Charles T. Hoge

California Bar No. 110696

Email: choge@knlh.com

Kirby Noonan Lance & Hoge, LLP

350 Tenth Avenue, Suite 1300

San Diego, CA 92101

Telephone: (619) 231-8666

Facsimile: (619) 231-9593

ATTORNEYS FOR PLAINTIFF
PATRIOT SCIENTIFIC CORPORATION